

LFC Requester:	Christine Boerner
-----------------------	--------------------------

**AGENCY BILL ANALYSIS
2013 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

And

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original X **Amendment**
Correction **Substitute**

Date January 29, 2013
Bill No: HB 253--305

Sponsor: Representative William Rehm **Reviewing** Attorney General's Office
Short Towing Service Fees, Hours **Person Writing** Jennifer Salazar
Title: and Payment **Phone:** 505-827-6990 **Email** jsalazar@nmag.gov

SECTION II: FISCAL IMPACT **FOR LFC OFFICIAL PURPOSES******
AGO STAFF SHOULD LEAVE SHAGED AREAS BLANK

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15		

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 194 titled "Amend Motor Carrier Law Act"

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Opinion Letter. This is a staff analysis in response to the agency’s committee’s or legislator’s request.

BILL SUMMARY

Summary Synopsis: HB 253 creates a new section to the Motor Carrier Act, NMSA 1978, Sections 62-52-1 to -40. This section would require a towing service to refrain from charging fees that vary depending on the day or time of day that an owner requests possession or inspection of his/her motor vehicle, so long as the request is made between the hours of 7AM and 9PM. The amendment would allow a towing service to charge a “reasonable additional fee” if a request is made outside the 7AM and 9PM timeframe.

HB 253 would also require a towing service to make a representative available every day of the year, between the hours of 7AM and 9PM, to process requests for the pickup or inspection of a motor vehicle. Furthermore, the proposed amendment would require a representative to appear on-site within one-half hour of receiving a request.

Finally, HB 235 would prohibit a towing service from charging a storage fee for holding a vehicle for less than twenty-four (24) hours. It would also require the towing service to accept credit card payments.

FISCAL IMPLICATIONS WITH ENACTING THIS BILL

N/A

SIGNIFICANT LEGAL ISSUES

This amendment may implicate federal preemption issues since transportation is regulated by the federal government. Specifically, 49 USC §14501(c) governing federal authority over intrastate transportation provides that a “State, political subdivision of a State, or political authority of 2 or more States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of any motor carrier ... or any motor private carrier, broker, or freight forwarder with respect to the transportation of property.”

The federal statute does not apply, however, to states that “enact or enforce a law, regulation, or other provision relating to the price of for-hire motor vehicle transportation by a tow truck, if such transportation is performed without the prior consent or authorization of the owner or operator of the motor vehicle.” 49 USC §14501(c)(2)(C). Consequently, the State of New Mexico may regulate the price of towing services in cases where a vehicle has been towed without the owner’s consent.

PERFORMANCE IMPLICATIONS WITH ENACTING THIS BILL

N/A

ADMINISTRATIVE IMPLICATIONS WITH ENACTING THIS BILL

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP WITH BILLS INTRODUCED THIS SESSION

TECHNICAL ISSUES OR DRAFTING ERROR

Please see analysis under “significant legal issues.” Also, the term “reasonable additional fee” in Section A is subjective and may result in many different interpretations

OTHER SUBSTANTIVE LEGAL ISSUES

N/A

ALTERNATIVES TO ENACTING THIS BILL

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

AMENDMENTS NEEDED TO IMPROVE THIS BILL

N/A